

Ocean Shipping Reform Act of 2022

[Public Law 117–146]

[This law has not been amended]

【Currency: This publication is a compilation of Public Law 117-146. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To amend title 46, United States Code, with respect to prohibited acts by ocean common carriers or marine terminal operators, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [46 U.S.C. 101 note] SHORT TITLE.

This Act may be cited as the “Ocean Shipping Reform Act of 2022”.

SEC. 2. PURPOSES.

Section 40101 of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) ensure an efficient, competitive, and economical transportation system in the ocean commerce of the United States;”;

(2) in paragraph (3), by inserting “and supporting commerce” after “needs”; and

(3) by striking paragraph (4) and inserting the following:

“(4) promote the growth and development of United States exports through a competitive and efficient system for the carriage of goods by water in the foreign commerce of the United States, and by placing a greater reliance on the marketplace.”.

SEC. 3. SERVICE CONTRACTS.

Section 40502(c) of title 46, United States Code, is amended—

(1) in paragraph (7), by striking “; and” and inserting a semicolon;

(2) in paragraph (8), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(9) any other essential terms that the Federal Maritime Commission determines necessary or appropriate through a rulemaking process.”.

SEC. 4. SHIPPING EXCHANGE REGISTRY.

(a) IN GENERAL.—Chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“SEC. 40504. [46 U.S.C. 40504] Shipping exchange registry

“(a) IN GENERAL.—No person may operate a shipping exchange involving ocean transportation in the foreign commerce of the United States unless the shipping exchange is registered as a national shipping exchange under the terms and conditions provided in this section and the regulations issued pursuant to this section.

“(b) REGISTRATION.—A person shall register a shipping exchange by filing with the Federal Maritime Commission an application for registration in such form as the Commission, by rule, may prescribe, containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate to complete a shipping exchange’s registration.

“(c) EXEMPTION.—The Commission may exempt, conditionally or unconditionally, a shipping exchange from registration under this section if the Commission finds that the shipping exchange is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in a foreign country where the shipping exchange is headquartered.

“(d) REGULATIONS.—Not later than 3 years after the date of enactment of the Ocean Shipping Reform Act of 2022, the Commission shall issue regulations pursuant to subsection (a), which shall set standards necessary to carry out subtitle IV of this title for registered national shipping exchanges. For consideration of a service contract entered into by a shipping exchange, the Commission shall be limited to the minimum essential terms for service contracts established under section 40502 of this title.

“(e) DEFINITION OF SHIPPING EXCHANGE.—In this section, the term ‘shipping exchange’ means a platform (digital, over-the-counter, or otherwise) that connects shippers with common carriers for the purpose of entering into underlying agreements or contracts for the transport of cargo, by vessel or other modes of transportation.”.

(b) [46 U.S.C. 40504 note] APPLICABILITY.—The registration requirement under section 40504 of title 46, United States Code (as added by subsection (a)), shall take effect on the date on which the Federal Maritime Commission states the rule is effective in the regulations issued under such section.

(c) [46 U.S.C. 40501] CLERICAL AMENDMENT.—The analysis for chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“40504. Shipping exchange registry.”.

SEC. 5. PROHIBITION ON RETALIATION.

Section 41102 of title 46, United States Code, is amended by adding at the end the following:

“(d) RETALIATION AND OTHER DISCRIMINATORY ACTIONS.—A common carrier, marine terminal operator, or ocean transportation intermediary, acting alone or in conjunction with any other person, directly or indirectly, may not—

“(1) retaliate against a shipper, an agent of a shipper, an ocean transportation intermediary, or a motor carrier by refusing, or threatening to refuse, an otherwise-available cargo space accommodation; or

“(2) resort to any other unfair or unjustly discriminatory action for—

“(A) the reason that a shipper, an agent of a shipper, an ocean transportation intermediary, or motor carrier has—

“(i) patronized another carrier; or

“(ii) filed a complaint against the common carrier, marine terminal operator, or ocean transportation intermediary; or

“(B) any other reason.”.

SEC. 6. PUBLIC DISCLOSURE.

Section 46106 of title 46, United States Code, is amended by adding at the end the following:

“(d) **PUBLIC DISCLOSURES.**—The Federal Maritime Commission shall publish, and annually update, on the website of the Commission—

“(1) all findings by the Commission of false detention and demurrage invoice information by common carriers under section 41104(a)(15) of this title; and

“(2) all penalties imposed or assessed against common carriers, as applicable, under sections 41107, 41108, and 41109, listed by each common carrier.”.

SEC. 7. COMMON CARRIERS.

(a) **IN GENERAL.**—Section 41104 of title 46, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “may not” and inserting “shall not”;

(B) by striking paragraph (3) and inserting the following:

“(3) unreasonably refuse cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods;”;

(C) in paragraph (5), by striking “ in the matter of rates or charges” and inserting “against any commodity group or type of shipment or in the matter of rates or charges”;

(D) in paragraph (10), by adding “, including with respect to vessel space accommodations provided by an ocean common carrier” after “negotiate”;

(E) in paragraph (12) by striking “; or” and inserting a semicolon;

(F) in paragraph (13) by striking the period and inserting a semicolon; and

(G) by adding at the end the following:

“(14) assess any party for a charge that is inconsistent or does not comply with all applicable provisions and regulations, including subsection (c) of section 41102 or part 545 of title 46, Code of Federal Regulations (or successor regulations);

“(15) invoice any party for demurrage or detention charges unless the invoice includes information as described in subsection (d) showing that such charges comply with—

“(A) all provisions of part 545 of title 46, Code of Federal Regulations (or successor regulations); and

“(B) applicable provisions and regulations, including the principles of the final rule published on May 18, 2020, entitled ‘Interpretive Rule on Demurrage and Detention Under the Shipping Act’ (or successor rule); or

“(16) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage against any commodity group or type of shipment.”; and

(2) by adding at the end the following:

“(d) DETENTION AND DEMURRAGE INVOICE INFORMATION.—

“(1) INACCURATE INVOICE.—If the Commission determines, after an investigation in response to a submission under section 41310, that an invoice under subsection (a)(15) was inaccurate or false, penalties or refunds under section 41107 shall be applied.

“(2) CONTENTS OF INVOICE.—An invoice under subsection (a)(15), unless otherwise determined by subsequent Commission rulemaking, shall include accurate information on each of the following, as well as minimum information as determined by the Commission:

“(A) Date that container is made available.

“(B) The port of discharge.

“(C) The container number or numbers.

“(D) For exported shipments, the earliest return date.

“(E) The allowed free time in days.

“(F) The start date of free time.

“(G) The end date of free time.

“(H) The applicable detention or demurrage rule on which the daily rate is based.

“(I) The applicable rate or rates per the applicable rule.

“(J) The total amount due.

“(K) The email, telephone number, or other appropriate contact information for questions or requests for mitigation of fees.

“(L) A statement that the charges are consistent with any of Federal Maritime Commission rules with respect to detention and demurrage.

“(M) A statement that the common carrier’s performance did not cause or contribute to the underlying invoiced charges.

“(e) SAFE HARBOR.—If a non-vessel operating common carrier passes through to the relevant shipper an invoice made by the ocean common carrier, and the Commission finds that the non-vessel operating common carrier is not otherwise responsible for the charge, then the ocean common carrier shall be subject to refunds or penalties pursuant to subsection (d)(1).

“(f) ELIMINATION OF CHARGE OBLIGATION.—Failure to include the information required under subsection (d) on an invoice with

any demurrage or detention charge shall eliminate any obligation of the charged party to pay the applicable charge.”.

(b) **[46 U.S.C. 41102 note] RULEMAKING ON DEMURRAGE OR DETENTION.**—

(1) **IN GENERAL.**—Not later than 45 days after the date of enactment of this Act, the Federal Maritime Commission shall initiate a rulemaking further defining prohibited practices by common carriers, marine terminal operators, shippers, and ocean transportation intermediaries under section 41102(c) of title 46, United States Code, regarding the assessment of demurrage or detention charges. The Federal Maritime Commission shall issue a final rule defining such practices not later than 1 year after the date of enactment of this Act.

(2) **CONTENTS.**—The rule under paragraph (1) shall only seek to further clarify reasonable rules and practices related to the assessment of detention and demurrage charges to address the issues identified in the final rule published on May 18, 2020, entitled “Interpretive Rule on Demurrage and Detention Under the Shipping Act” (or successor rule), including a determination of which parties may be appropriately billed for any demurrage, detention, or other similar per container charges.

(c) **[46 U.S.C. 41104 note] RULEMAKING ON UNFAIR OR UNJUSTLY DISCRIMINATORY METHODS.**—Not later than 60 days after the date of enactment of this Act, the Federal Maritime Commission shall initiate a rulemaking defining unfair or unjustly discriminatory methods under section 41104(a)(3) of title 46, United States Code, as amended by this section. The Federal Maritime Commission shall issue a final rule not later than 1 year after the date of enactment of this Act.

(d) **RULEMAKING ON UNREASONABLE REFUSAL TO DEAL OR NEGOTIATE WITH RESPECT TO VESSEL SPACE ACCOMMODATIONS.**—Not later than 30 days after the date of enactment of this Act, the Federal Maritime Commission, in consultation with the Commandant of the United States Coast Guard, shall initiate a rulemaking defining unreasonable refusal to deal or negotiate with respect to vessel space under section 41104(a)(10) of title 46, as amended by this section. The Federal Maritime Commission shall issue a final rule not later than 6 months after the date of enactment of this Act.

SEC. 8. ASSESSMENT OF PENALTIES OR REFUNDS.

(a) **IN GENERAL.**—Title 46, United States Code, is amended—

(1) in section 41107—

(A) in the section heading, by inserting “or refunds” after “penalties”;

(B) in subsection (a), by inserting “or, in addition to or in lieu of a civil penalty, is liable for the refund of a charge” after “civil penalty”; and

(C) in subsection (b), by inserting “or, in addition to or in lieu of a civil penalty, the refund of a charge,” after “civil penalty”; and

(2) section 41109 is amended—

(A) by striking subsections (a) and (b) and inserting the following:

“(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may—

“(1) after notice and opportunity for a hearing, in accordance with this part—

“(A) assess a civil penalty; or

“(B) in addition to, or in lieu of, assessing a civil penalty under subparagraph (A), order a refund of money (including additional amounts in accordance with section 41305(c)), subject to subsection (b)(2); and

“(2) compromise, modify, or remit, with or without conditions, a civil penalty or refund imposed under paragraph (1).

“(b) DETERMINATION OF AMOUNT.—

“(1) FACTORS FOR CONSIDERATION.—In determining the amount of a civil penalty assessed or refund of money ordered pursuant to subsection (a), the Federal Maritime Commission shall take into consideration—

“(A) the nature, circumstances, extent, and gravity of the violation committed;

“(B) with respect to the violator—

“(i) the degree of culpability;

“(ii) any history of prior offenses;

“(iii) the ability to pay; and

“(iv) such other matters as justice may require;

and

“(C) the amount of any refund of money ordered pursuant to subsection (a)(1)(B).

“(2) COMMENSURATE REDUCTION IN CIVIL PENALTY.—

“(A) IN GENERAL.—In any case in which the Federal Maritime Commission orders a refund of money pursuant to subsection (a)(1)(B) in addition to assessing a civil penalty pursuant to subsection (a)(1)(A), the amount of the civil penalty assessed shall be decreased by any additional amounts included in the refund of money in excess of the actual injury (as defined in section 41305(a)).

“(B) TREATMENT OF REFUNDS.—A refund of money ordered pursuant to subsection (a)(1)(B) shall be—

“(i) considered to be compensation paid to the applicable claimant; and

“(ii) deducted from the total amount of damages awarded to that claimant in a civil action against the violator relating to the applicable violation.”;

(B) in subsection (c), by striking “may not be imposed” and inserting “or refund of money under subparagraph (A) or (B), respectively, of subsection (a)(1) may not be imposed”;

(C) in subsection (e), by inserting “or order a refund of money” after “penalty”;

(D) in subsection (f), by inserting “, or that is ordered to refund money,” after “assessed”; and

(E) in subsection (g), in the first sentence, by inserting “or a refund required under this section” after “penalty”.

SEC. 9. DATA COLLECTION.

(a) **IN GENERAL.**—Chapter 411 of title 46, United States Code, is amended by adding at the end the following:

“SEC. 41110. [46 U.S.C. 41110] Data collection

“The Federal Maritime Commission shall publish on its website a calendar quarterly report that describes the total import and export tonnage and the total loaded and empty 20-foot equivalent units per vessel (making port in the United States, including any territory or possession of the United States) operated by each ocean common carrier covered under this chapter. Ocean common carriers under this chapter shall provide to the Commission all necessary information, as determined by the Commission, for completion of this report.”.

(b) **[46 U.S.C. 41110 note] RULE OF CONSTRUCTION.**—Nothing in this section, and the amendment made by this section, shall be construed to compel the public disclosure of any confidential or proprietary data, in accordance with section 552(b)(4) of title 5, United States Code.

(c) **[46 U.S.C. 41101] CLERICAL AMENDMENT.**—The analysis for chapter 411 of title 46, United States Code, is amended by adding at the end the following:

“41110. Data collection.”.

SEC. 10. CHARGE COMPLAINTS.

(a) **IN GENERAL.**—Chapter 413 of title 46, United States Code, is amended by adding at the end the following:

“SEC. 41310. [46 U.S.C. 41310] Charge complaints

“(a) **IN GENERAL.**—A person may submit to the Federal Maritime Commission, and the Commission shall accept, information concerning complaints about charges assessed by a common carrier. The information submitted to the Commission shall include the bill of lading numbers and invoices, and may include any other relevant information.

“(b) **INVESTIGATION.**—Upon receipt of a submission under subsection (a), with respect to a charge assessed by a common carrier, the Commission shall promptly investigate the charge with regard to compliance with section 41104(a) and section 41102. The common carrier shall—

“(1) be provided an opportunity to submit additional information related to the charge in question; and

“(2) bear the burden of establishing the reasonableness of any demurrage or detention charges pursuant to section 545.5 of title 46, Code of Federal Regulations (or successor regulations).

“(c) **REFUND.**—Upon receipt of submissions under subsection (a), if the Commission determines that a charge does not comply with section 41104(a) or 41102, the Commission shall promptly order the refund of charges paid.

“(d) **PENALTIES.**—In the event of a finding that a charge does not comply with section 41104(a) or 41102 after submission under subsection (a), a civil penalty under section 41107 shall be applied to the common carrier making such charge.

“(e) **CONSIDERATIONS.**—If the common carrier assessing the charge is acting in the capacity of a non-vessel-operating common

carrier, the Commission shall, while conducting an investigation under subsection (b), consider—

“(1) whether the non-vessel-operating common carrier is responsible for the noncompliant assessment of the charge, in whole or in part; and

“(2) whether another party is ultimately responsible in whole or in part and potentially subject to action under subsections (c) and (d).”.

(b) **[46 U.S.C. 41301] CLERICAL AMENDMENT.**—The analysis for chapter 413 of title 46, United States Code, is amended by adding at the end the following:

“41310. Charge complaints.”.

SEC. 11. INVESTIGATIONS.

(a) **AMENDMENTS.**—Section 41302 of title 46, United States Code, is amended—

(1) in subsection (a), in the first sentence, by striking “or agreement” and inserting “agreement, fee, or charge”; and

(2) in subsection (b)—

(A) in the subsection heading, by striking “Agreement” and inserting “Agreement, fee, or charge”; and

(B) by inserting “, fee, or charge” after “agreement”.

(b) **REPORT.**—The Federal Maritime Commission shall publish on a publicly available website of the Commission a report containing the results of the investigation entitled “Fact Finding No. 29, International Ocean Transportation Supply Chain Engagement”.

SEC. 12. AWARD OF ADDITIONAL AMOUNTS.

Section 41305(c) of title 46, United States Code is amended by striking “41102(b)” and inserting “subsection (b) or (c) of section 41102”.

SEC. 13. ENFORCEMENT OF REPARATION ORDERS.

Section 41309 of title 46, United States Code, is amended—

(1) in subsection (a), by striking “reparation, the person to whom the award was made” and inserting “a refund of money or reparation, the person to which the refund or reparation was awarded”; and

(2) in subsection (b), in the first sentence—

(A) by striking “made an award of reparation” and inserting “ordered a refund of money or any other award of reparation”; and

(B) by inserting “(except for the Commission or any component of the Commission)” after “parties in the order”.

SEC. 14. ANNUAL REPORT TO CONGRESS.

Section 46106(b) of title 46, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period and inserting “, and”; and

(3) by adding at the end the following:

“(7) an identification of any otherwise concerning practices by ocean common carriers, particularly such carriers that are controlled carriers, that are—

“(A) State-owned or State-controlled enterprises; or
 “(B) owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—

“(i) identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;

“(ii) identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a priority foreign country under subsection (a)(2) of that section; or

“(iii) subject to monitoring by the United States Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).”.

SEC. 15. TECHNICAL AMENDMENTS.

(a) Section 41108(a) of title 46, United States Code, is amended by striking “section 41104(1), (2), or (7)” and inserting “paragraph (1), (2), or (7) of section 41104(a)”.

(b) Section 41109(c) of title 46, United States Code, as amended by section 8 of this Act, is further amended by striking “section 41102(a) or 41104(1) or (2) of this title” and inserting “subsection (a) or (d) of section 41102 or paragraph (1) or (2) of section 41104(a)”.

(c) Section 41305 of title 46, United States Code, as amended by section 12 of this Act, is further amended—

(1) in subsection (c), by striking “41104(3) or (6), or 41105(1) or (3) of this title” and inserting “paragraph (3) or (6) of section 41104(a), or paragraph (1) or (3) of section 41105”; and

(2) in subsection (d), by striking “section 41104(4)(A) or (B) of this title” and inserting “subparagraph (A) or (B) of section 41104(a)(4)”.

SEC. 16. DWELL TIME STATISTICS.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term “Director” means the Director of the Bureau of Transportation Statistics.

(2) MARINE CONTAINER.—The term “marine container” means an intermodal container with a length of—

(A) not less than 20 feet; and

(B) not greater than 45 feet.

(3) OUT OF SERVICE PERCENTAGE.—The term “out of service percentage” means the proportion of the chassis fleet for any defined geographical area that is out of service at any one time.

(4) STREET DWELL TIME.—The term “street dwell time”, with respect to a piece of equipment, means the quantity of time during which the piece of equipment is in use outside of the terminal.

(b) AUTHORITY TO COLLECT DATA.—

(1) IN GENERAL.—Each port, marine terminal operator, and chassis owner or provider with a fleet of over 50 chassis that supply chassis for a fee shall submit to the Director such data as the Director determines to be necessary for the implementation of this section, subject to subchapter III of chapter 35 of title 44, United States Code.

(2) APPROVAL BY OMB.—Subject to the availability of appropriations, not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall approve an information collection for purposes of this section.

(c) PUBLICATION.—Subject to the availability of appropriations, not later than 240 days after the date of enactment of this Act, and not less frequently than monthly thereafter, the Director shall publish statistics relating to the dwell time of equipment used in intermodal transportation at the top 25 ports, including inland ports, by 20-foot equivalent unit, including—

(1) total street dwell time, from all causes, of marine containers and marine container chassis; and

(2) the average out of service percentage, which shall not be identifiable with any particular port, marine terminal operator, or chassis provider.

(d) FACTORS.—Subject to the availability of appropriations, to the maximum extent practicable, the Director shall publish the statistics described in subsection (c) on a local, regional, and national basis.

(e) SUNSET.—The authority under this section shall expire December 31, 2026.

SEC. 17. [46 U.S.C. 41301 note] FEDERAL MARITIME COMMISSION ACTIVITIES.

(a) PUBLIC SUBMISSIONS TO COMMISSION.—The Federal Maritime Commission shall—

(1) establish on the public website of the Commission a webpage that allows for the submission of comments, complaints, concerns, reports of noncompliance, requests for investigation, and requests for alternative dispute resolution; and

(2) direct each submission under the link established under paragraph (1) to the appropriate component office of the Commission.

(b) AUTHORIZATION OF OFFICE OF CONSUMER AFFAIRS AND DISPUTE RESOLUTION SERVICES.—The Commission shall maintain an Office of Consumer Affairs and Dispute Resolution Services to provide nonadjudicative ombuds assistance, mediation, facilitation, and arbitration to resolve challenges and disputes involving cargo shipments, household good shipments, and cruises subject to the jurisdiction of the Commission.

(c) ENHANCING CAPACITY FOR INVESTIGATIONS.—

(1) IN GENERAL.—Pursuant to section 41302 of title 46, United States Code, not later than 18 months after the date of enactment of this Act, the Chairperson of the Commission shall staff within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis not fewer than 7

total positions to assist in investigations and oversight, in addition to the positions within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis on that date of enactment.

(2) DUTIES.—The additional staff appointed under paragraph (1) shall provide support—

(A) to Area Representatives of the Bureau of Enforcement;

(B) to attorneys of the Bureau of Enforcement in enforcing the laws and regulations subject to the jurisdiction of the Commission;

(C) for the alternative dispute resolution services of the Commission; or

(D) for the review of agreements and activities subject to the authority of the Commission.

SEC. 18. TEMPORARY EMERGENCY AUTHORITY.

(a) DEFINITIONS.—In this section:

(1) COMMON CARRIER.—The term “common carrier” has the meaning given the term in section 40102 of title 46, United States Code.

(2) MOTOR CARRIER.—The term “motor carrier” has the meaning given the term in section 13102 of title 49, United States Code.

(3) RAIL CARRIER.—The term “rail carrier” has the meaning given the term in section 10102 of title 49, United States Code.

(4) SHIPPER.—The term “shipper” has the meaning given the term in section 40102 of title 46, United States Code.

(b) PUBLIC INPUT ON INFORMATION SHARING.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Federal Maritime Commission shall issue a request for information, seeking public comment regarding—

(A) whether congestion of the carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system;

(B) whether an emergency order under this section would alleviate such an emergency situation; and

(C) the appropriate scope of such an emergency order, if applicable.

(2) CONSULTATION.—During the public comment period under paragraph (1), the Commission may consult, as the Commission determines to be appropriate, with—

(A) other Federal departments and agencies; and

(B) persons with expertise relating to maritime and freight operations.

(c) AUTHORITY TO REQUIRE INFORMATION SHARING.—On making a unanimous determination described in subsection (d), the Commission may issue an emergency order requiring any common

carrier or marine terminal operator to share directly with relevant shippers, rail carriers, or motor carriers information relating to cargo throughput and availability, in order to ensure the efficient transportation, loading, and unloading of cargo to or from—

- (1) any inland destination or point of origin;
- (2) any vessel; or
- (3) any point on a wharf or terminal.

(d) DESCRIPTION OF DETERMINATION.—

(1) IN GENERAL.—A determination referred to in subsection (c) is a unanimous determination by the commissioners on the Commission that congestion of carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system.

(2) FACTORS FOR CONSIDERATION.—In issuing an emergency order pursuant to subsection (c), the Commission shall tailor the emergency order with respect to temporal and geographic scope, taking into consideration the likely burdens on common carriers and marine terminal operators and the likely benefits on congestion relating to the purposes described in section 40101 of title 46, United States Code.

(e) PETITIONS FOR EXCEPTION.—

(1) IN GENERAL.—A common carrier or marine terminal operator subject to an emergency order issued pursuant to this section may submit to the Commission a petition for exception from 1 or more requirements of the emergency order, based on a showing of undue hardship or other condition rendering compliance with such a requirement impracticable.

(2) DETERMINATION.—The Commission shall make a determination regarding a petition for exception under paragraph (1) by—

- (A) majority vote; and
- (B) not later than 21 days after the date on which the petition is submitted.

(3) INAPPLICABILITY PENDING REVIEW.—The requirements of an emergency order that is the subject of a petition for exception under this subsection shall not apply to the petitioner during the period for which the petition is pending.

(f) LIMITATIONS.—

(1) TERM.—An emergency order issued pursuant to this section—

- (A) shall remain in effect for a period of not longer than 60 days; but
- (B) may be renewed by a unanimous determination of the Commission.

(2) SUNSET.—The authority provided by this section shall terminate on the date that is 18 months after the date of enactment of this Act.

(3) INVESTIGATIVE AUTHORITY UNAFFECTED.—Nothing in this section shall affect the investigative authorities of the Commission as described in subpart R of part 502 of title 46, Code of Federal Regulations.

SEC. 19. BEST PRACTICES FOR CHASSIS POOLS.

(a) **IN GENERAL.**—Not later than April 1, 2023, the Federal Maritime Commission shall enter into an agreement with the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine under which the Transportation Research Board shall carry out a study and develop best practices for on-terminal or near-terminal chassis pools that provide service to marine terminal operators, motor carriers, railroads, and other stakeholders that use the chassis pools, with the goal of optimizing supply chain efficiency and effectiveness.

(b) **REQUIREMENTS.**—In developing best practices under subsection (a), the Transportation Research Board shall—

(1) take into consideration—

(A) practical obstacles to the implementation of chassis pools; and

(B) potential solutions to those obstacles; and

(2) address relevant communication practices, information sharing, and knowledge management.

(c) **PUBLICATION.**—The Commission shall publish the best practices developed under this section on a publicly available website by not later than April 1, 2024.

(d) **FUNDING.**—Subject to appropriations, the Commission may expend such sums as are necessary, but not to exceed \$500,000, to carry out this section.

SEC. 20. [49 U.S.C. 31305 note] LICENSING TESTING.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration (referred to in this section as the “Administrator”) shall conduct a review of the discretionary waiver authority described in the document issued by the Administrator entitled “Waiver for States Concerning Third Party CDL Skills Test Examiners In Response to the COVID-19 Emergency” and dated August 31, 2021, for safety concerns.

(b) **PERMANENT WAIVER.**—If the Administrator finds no safety concerns after conducting a review under subsection (a), the Administrator shall—

(1) notwithstanding any other provision of law, make the waiver permanent; and

(2) not later than 90 days after completing the review under subsection (a), revise section 384.228 of title 49, Code of Federal Regulations, to provide that the discretionary waiver authority referred to in subsection (a) shall be permanent.

(c) **REPORT.**—If the Administrator declines to move forward with a rulemaking for revision under subsection (b), the Administrator shall explain the reasons for declining to move forward with the rulemaking in a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 21. PLANNING.

(a) **AMENDMENT.**—Section 6702(g) of title 49, United States Code, is amended—

(1) by striking “Of the amounts” and inserting the following:

“(1) IN GENERAL.—Of the amounts”; and
 (2) by adding at the end the following:
 “(2) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Subparagraphs (A) and (B) of subsection (c)(2) shall not apply with respect to amounts made available for planning, preparation, or design under paragraph (1).”.

(b) EMERGENCY DESIGNATION.—Amounts for which outlays are affected under the amendments made by subsection (a) that were previously designated by the Congress as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 are designated by the Congress as an emergency requirement pursuant to section 4001(a)(1) and section 4001(b) of S. Con. Res. 14 (117th Congress), the concurrent resolution on the budget for fiscal year 2022.

SEC. 22. REVIEW OF POTENTIAL DISCRIMINATION AGAINST TRANSPORTATION OF QUALIFIED HAZARDOUS MATERIALS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall initiate a review of whether there have been any systemic decisions by ocean common carriers to discriminate against maritime transport of qualified hazardous materials by unreasonably denying vessel space accommodations, equipment, or other instrumentalities needed to transport such materials. The Comptroller General shall take into account any applicable safety and pollution regulations.

(b) CONSULTATION.—The Comptroller General of the United States may consult with the Commandant of the Coast Guard and the Chair of the Federal Maritime Commission in conducting the review under this section.

(c) DEFINITIONS.—In this section:

(1) HAZARDOUS MATERIALS.—The term “hazardous materials” includes dangerous goods, as defined by the International Maritime Dangerous Goods Code.

(2) OCEAN COMMON CARRIER.—The term “ocean common carrier” has the meaning given such term in section 40102 of title 46, United States Code.

(3) QUALIFIED HAZARDOUS MATERIALS.—The term “qualified hazardous materials” means hazardous materials for which the shipper has certified to the ocean common carrier that such materials have been or will be tendered in accordance with applicable safety laws, including regulations.

(4) SHIPPER.—The term “shipper” has the meaning given such term in section 40102 of title 46, United States Code.

SEC. 23. [46 U.S.C. 70105 note] TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS.

(a) DEFINITION OF DIRECT ASSISTANCE TO A UNITED STATES PORT.—In this section:

(1) IN GENERAL.—The term “direct assistance to a United States port” means the transportation of cargo directly to or from a United States port.

(2) EXCLUSIONS.—The term “direct assistance to a United States port” does not include—

(A) the transportation of a mixed load of cargo that includes—

(i) cargo that does not originate from a United States port; or

(ii) a container or cargo that is not bound for a United States port;

(B) any period during which a motor carrier or driver is operating in interstate commerce to transport cargo or provide services not in support of transportation to or from a United States port; or

(C) the period after a motor carrier dispatches the applicable driver or commercial motor vehicle of the motor carrier to another location to begin operation in interstate commerce in a manner that is not in support of transportation to or from a United States port.

(b) TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS.—The Administrator of the Transportation Security Administration and the Commandant of the Coast Guard shall jointly prioritize and expedite the consideration of applications for a Transportation Worker Identification Credential with respect to applicants that reasonably demonstrate that the purpose of the Transportation Worker Identification Credential is for providing, within the interior of the United States, direct assistance to a United States port.

SEC. 24. USE OF UNITED STATES INLAND PORTS FOR STORAGE AND TRANSFER OF CARGO CONTAINERS.

(a) MEETING.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary for Transportation Policy, in consultation with the Administrator of the Maritime Administration and the Chairperson of the Federal Maritime Commission, shall convene a meeting of representatives of entities described in subsection (b) to discuss the feasibility of, and strategies for, identifying Federal and non-Federal land, including inland ports, for the purposes of storage and transfer of cargo containers due to port congestion.

(b) DESCRIPTION OF ENTITIES.—The entities referred to in subsection (a) are—

(1) representatives of United States major gateway ports, inland ports, and export terminals;

(2) ocean carriers;

(3) railroads;

(4) trucking companies;

(5) port workforce, including organized labor; and

(6) such other stakeholders as the Secretary of Transportation, in consultation with the Chairperson of the Federal Maritime Commission, determines to be appropriate.

(c) REPORT TO CONGRESS.—As soon as practicable after the date of the meeting convened under subsection (a), the Assistant Secretary for Transportation Policy, in consultation with the Administrator of the Maritime Administration and the Chairperson of the Federal Maritime Commission, shall submit to Congress a report describing—

(1) the results of the meeting;

(2) the feasibility of identifying land or property under the jurisdiction of United States, or ports in the United States, for storage and transfer of cargo containers; and

(3) recommendations relating to the meeting, if any.

(d) SAVINGS PROVISION.—No authorization contained in this section may be acted on in a manner that jeopardizes or negatively impacts the national security or defense readiness of the United States.

SEC. 25. REPORT ON ADOPTION OF TECHNOLOGY AT UNITED STATES PORTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the adoption of technology at United States ports, as compared to that adoption at foreign ports, including—

(1) the technological capabilities of United States ports, as compared to foreign ports;

(2) an assessment of whether the adoption of technology at United States ports could lower the costs of cargo handling;

(3) an assessment of regulatory and other barriers to the adoption of technology at United States ports; and

(4) an assessment of technology and the workforce.

SEC. 26. AUTHORIZATION OF APPROPRIATIONS.

Section 46108 of title 46, United States Code, is amended by striking “\$29,086,888 for fiscal year 2020 and \$29,639,538 for fiscal year 2021” and inserting “\$32,869,000 for fiscal year 2022, \$38,260,000 for fiscal year 2023, \$43,720,000 for fiscal year 2024, and \$49,200,000 for fiscal year 2025”.